

  
**Haines Borough**  
**Borough Assembly Meeting #61**  
**December 14, 2004**  
**MINUTES**

**Approved**

1. **CALL TO ORDER/PLEDGE TO THE FLAG:** Deputy Mayor **LAPP** called the meeting to order at 6:30 p.m. in the Assembly Chambers of the Public Safety Building and led the pledge to the flag.
2. **ROLL CALL Present:** Assembly Members, Norm **SMITH**, Jerry **LAPP**, Scott **ROSSMAN**, Stephanie **SCOTT**, and Debra **SCHNABEL**.  
**Absent:** Herb **VANCLEVE** (vacation) and Mayor Mike **CASE** (medical reasons).

**Staff Present:** Robert **VENABLES**/Borough Manager, Julie **COZZI**/Borough Clerk, Lori **STEPANSKY**/Tourism Director, Cindy "CJ" **JONES**/Museum Director, Addison **FIELD**/Museum Director-in-Training, and Jila **STUART**/Accountant.

**Visitors Present:** Tod **SEBENS**/KHNS, Bonnie **HEDRICK**/CVN, Fred **GRAY**, Carolyn **WEISHAHN**, John **FLORESKE**, Don **TURNER**, Jr., Howard **AKINS**, Lee **HEINMILLER**, John **HEDRICK**, Ben **KIRKPATRICK**, and others.

3. **APPROVAL OF AGENDA & CONSENT AGENDA:**

M/S **SCOTT/SMITH** Motion to approve the Consent Agenda.

**LAPP** requested New Business Items 12C4, 12C5, 12C6, and 12C7 be removed and added to the next agenda when the mayor will be present. Additionally, he asked for the removal of Item 12C9 at the manager's request; the waste oil burner bids are still being reviewed and are not yet ready for an award by the assembly. **SCOTT** requested adding an Item C - SUD (Code language) under Old Business. **SCHNABEL** noted that the Item 7A detail erroneously said a joint meeting occurred on 11/30. That did not happen. The Clerk will remove correct the agenda for the record.

The motion to approve the consent agenda carried unanimously.

4. **APPROVAL OF MINUTES:**

\*November 23, 2004 Regular and November 30, 2004 Special

5. **PUBLIC COMMENTS:**

**JONES** introduced **FIELD** as the incoming Museum Director.

**WEISHAHN** asked for an update on the helicopter SUD being put into borough code language. She asked for the project to be handled in a timely manner so the regulations would be in effect in time for the heliskiing season.

**HEINMILLER** and John **HEDRICK** spoke in support of the KHNS proposal to manage the Chilkat Center for the Arts.

6. **MAYOR'S COMMENTS/REPORT:**

Deputy Mayor **LAPP** recommended the appointment of Frankie Perry and the reappointment of James Shook to the Sheldon Museum Board of Trustees.

M/S **SCOTT/SCHNABEL** Motion to confirm the appointment of Frankie Perry and James Shook to the Museum Board of Trustees.

**7. PUBLIC HEARINGS:**

**A. Ordinance 04-11-089** - (Introduction and first hearing)

**An ordinance of the Haines Borough amending Haines Borough code section 2.56 to clarify the functions and organization of the Convention and Visitors Bureau Board.**

**LAPP** said he would entertain a motion to introduce the ordinance. Hearing none, the ordinance died.

**B. Ordinance 04-12-090** - (Introduction and first hearing)

**An ordinance of the Haines Borough amending Haines Borough code section 7.08.040(c) changing the structure of the Board of Directors for Mud Bay Fire Service Area (FSA) #4.**

M/S **SCOTT/SCHNABEL** Motion to introduce Ordinance 04-12-090 and hold a first public hearing at the December 28 meeting.

**SCOTT** said she met with the FSA #4 board during their meeting to review the proposed ordinance. **KIRKPATRICK**, after being called upon, said the board concurs with the introduction of the ordinance. They do request an amendment to the ordinance as introduced to allow the board to be made up of 4 residents plus fire chief as opposed to 3 residents plus the chief.

M/S **SCOTT/ROSSMAN** Motion to amend the ordinance language to read "composed of 5 members, 4 residents of the district, and the fire chief..."

The amendment motion carried unanimously.

**SCOTT** asked about the board term information in the code that has been struck-through in the proposed ordinance. She would like to see it remain. **COZZI** explained the reason for the recommended deletion: the code language was adjusted to make FSA #4 identical to FSA #2. The FSA #2 code does not include term information, and the assembly may decide that it should include it.

M/S **SCOTT/SMITH** Motion to amend the ordinance language to reinstate the term information.

The clerk said she believed the mayor set term limits for the appointed board members.

**SCOTT** and **SMITH** withdrew their motion. The issue of terms will be addressed at the next meeting; the clerk will provide the current term information.

The main motion carried unanimously. The ordinance was introduced and the first public hearing was set for December 28<sup>th</sup>.

**8. STAFF REPORTS:**

**A. Manager - VENABLES** thanked the assembly and members of the community for the vote of confidence in offering him the borough manager position. He summarized his written report that covered the following subjects:

- Financial Reporting
- Supplemental Property Assessments
- Haines Coastal Management Plan Update
- Swimming Pool Transfer
- Lobbyist Report

**ROSSMAN** asked for the scope of the property reassessment. **VENABLES** said it is just property not currently on the tax rolls. A full borough-wide reassessment is planned for the future.

**VENABLES** asked for a commerce committee meeting to be scheduled soon after the holidays to identify funding priorities.

**\*B Finance**

**9. COMMITTEE/COMMISSION REPORTS:**

- A. Commerce Committee** - None
- B. Finance & Budget** - None
- C. Personnel & Labor Relations** - None
- D. Government Services/Affairs** - Written

**SCHNABEL** elaborated her reasons for not introducing ordinance 04-11-089 (CVB board code change). She believes the requested language is incomplete and a more fundamental issue of board empowerment and responsibility needs to be addressed first.

**SCOTT** asked the manager to communicate with the CVB Board that the ordinance should be more thoroughly reviewed by the board for consistency with existing code, especially Section 2.56.

- E. Planning Commission** - None

**10. OLD BUSINESS:**

**A. Assembly Confirmation of the Parks & Rec Advisory Board Appointees**

Deputy Mayor **LAPP** asked the assembly for confirmation of the mayor's appointment of the following individuals to the new Parks and Recreation Advisory Board: Rob Pollock, Tammy Piper, Walter Clayton, Anthony Crupi, Ray Chapin, Merri Noel, and Sarah "Tigger" Posey.

M/S **SCOTT/SMITH** Motion to confirm the mayor's appointments to the Parks and Recreation Advisory Board.

The motion carried unanimously.

The manager was directed by the assembly to convene the first meeting of that board.

**B. Waste Water Treatment RFP**

**VENABLES** said no additional information has been received. The USDA individual, Tim Krug, slated to be in the area did not end up coming. He said he spoke with Krug about funding opportunities and was told there is nothing in the near term or on the horizon. **SCOTT** said she is interested in the fact that \$15K was appropriated for the grant-writing portion of the project. She noted the assembly may need to reappropriate the funds to another project. She added the finance committee is charged with identifying additional funds for the school district and the \$15K might be a possible source for some of the funds.

**C. SUD** (Added by **SCOTT** during the approval of the Consent Agenda)

**SCOTT** suggested the Government Services/Affairs Committee hold a meeting to review the language. **VENABLES** said **CASE** asked him to talk with Vince Hansen about his availability to work on the language.

M/S **SCOTT/SCHNABEL** Motion to refer the subject to the Government Services committee to gather public input.

The motion carried unanimously.

In the meantime, **VENABLES** will talk to Vince Hansen and/or other resources regarding putting the actual code language together.

**11. STRATEGIC PLAN UPDATES** - None

**12. NEW BUSINESS:**

**A. Resolutions**

**1. Resolution 04-12-054**

A resolution of the Haines Borough Assembly adopting an alternative allocation method for the FY05 shared fisheries business tax program and certifying that this allocation method fairly represents the distribution of significant effects of fisheries business activity in Southeast Alaska.

M/S **SCHNABEL/SCOTT** Motion to adopt resolution 04-12-054.

The motion carried unanimously in a roll call vote.

**B. Ordinances for Introduction**

**1. Ordinance 04-12-091**

An ordinance of the Haines Borough amending Haines Borough code Title 18, Section 18.30.050 - Appeals to the Commission, and Section 18.30.060 - Appeals to the Borough Assembly, to make provision for appealing a borough manager land-use decision.

M/S **SCHNABEL/SCOTT** Motion to introduce ordinance 04-12-091 and set a first public hearing for 12/28/04.

**SCOTT** expressed concern about a possible typo in the proposed language for Section 18.30.060 saying "commission" should be probably read "assembly" instead. **SCHNABEL** agreed. **SCOTT** asked about the planning commission appeal process and the way the code appears to give the commission the option of denying an appeal of a decision by the borough manager. **HEINMILLER** noted that the commission does have the option deny an appeal. **ROSSMAN** said there are two levels of appeal, so that should take care of it. **SCOTT** pointed out that the last sentence of Section 18.30.050 says "if the commission decides to hear an appeal..." It allows the commission to be arbitrary. **SCHNABEL** said the planning commission may decide not to hear an appeal of a manager's decision thereby choosing to support the manager. **SCOTT** asked **HEINMILLER** to comment. **HEINMILLER** said the planning commission becomes a quasi-judicial body at that point.

The motion failed 3-2 with **SCHNABEL** and **SMITH** opposed.

**SCHNABEL** requested the issue go back to the planning commission for clarification and rewording especially of Section 18.30.060. The full assembly agreed that the "may" and "shall" portions are sufficiently clear, but the appeal process is not.

### C. Other New Business

#### 1. Chilkat Center Lease/Management Agreement

**SCOTT** said the Government Services/Affairs Committee did not follow the task with which they were charged: putting out an RFP for a contract to manage the Chilkat Center. Bonnie **HEDRICK** said she could likely make space in the current week's edition provided it is very small and submitted first thing in the morning. **SCHNABEL** said the KHNS proposal was discussed in a public meeting but is unique enough that there should not be a problem with others preparing proposals of their own.

**LAPP** said an RFP will be put out basically because borough code dictates it. The assembly agreed to a two-week response period.

**SCOTT** said right now the Chilkat Center is being managed voluntarily by KHNS staff and they should be applauded for taking it on. **SCHNABEL** expressed discomfort with the idea of KHNS continuing without compensation. The manager was directed to meet with John **HEDRICK** right away to work out some type of compensation for continued management.

#### 2. Amend Conveyance by Dedication of the Chilkat Center

**HEINMILLER** expressed his opinion that the conditional deed of dedication has been breached at different times. He said, "The borough is showing a blatant disregard for the legalities of the deed, and if they put out an RFP for management of the facility, they are breaching the deed again." **SCOTT** disagreed with the "strength" **HEINMILLER's** words saying she does not see other conditions listed in the deed. The Government Services/Affairs Committee is offering an amendment to the existing conveyance document. She also recommended going before the school board and asking about their interest in managing the Center. **SCHNABEL** said the highest level of governance in the third class borough was the school board (assembly). **LAPP** said the Center was originally given to the former borough and the school superintendent put in charge, because s(he) was probably the highest paid borough employee at the time. **SCHNABEL** recommended that the borough manager work directly with Alaska Indian Arts to come up with acceptable wording and terms.

M/S **SCHNABEL/SCOTT** Motion asking the manager to meet with Alaska Indian Arts to develop language to amend the Chilkat Center conveyance of dedication to reflect the status quo.

The motion carried unanimously.

### 3. Chilkoot Lumber Company Proposal

**SCHNABEL** distributed a proposed amendment to the 1996 Chilkoot Lumber Company agreement and summarized the history and the current delinquent tax situation. She said the borough has been approached by owner Ed Lapeyri to discuss a way to settle the account. The Finance Committee is recommending the assembly agree to the amendment.

M/S **SCOTT/LAPP** Motion to approve the amendment to the 1996 agreement as proposed by the Finance Committee in the document dated 12/14/04 and marked "#3."

**TURNER** asked if \$76K in taxes is going to be forgiven in exchange for Lapeyri cleaning up his own property. **SCHNABEL** noted it is not taxes. It is penalty and interest that is owed on taxes that WERE owed. **FLORESKE** expressed concern that this would set a bad precedent. He said the penalties should be considered the same as the tax and if Lapeyri is treated that way, others should be also. **SCHNABEL** disagreed that penalties and interest are the same as taxes. She said the Finance Committee is offering to "quiet" the issue and make an investment in improving property that will be an asset to the Borough. She added the assembly has the authority to continue with the existing agreement, and Lapeyri is clearly in default. There are other ways of addressing it; this proposed

amendment is just one option. **ROSSMAN** said there will be scrap revenue in the clean-up process; he would like the proposed amendment to be reworded to say the 60-40 is still in effect to give the borough 60 percent of any revenue. **LAPP** asked if Lapeyri would be foreclosed on. **SCHNABEL** said all real property taxes have been paid. The issue is the tax on personal property that left the borough. **ROSSMAN** said his understanding is that the bank that owned the personal property took it back in 1995 or 1996. **VENABLES** said the lien is on the powerhouse. **LAPP** said there is no value to the borough in that. **SCHNABEL** said she is willing to continue to talk with Lapeyri, but the current situation is that the defaulted 1996 agreement needs to be dealt with. **SCOTT** asked if the \$65,142 is only penalties and interest. **VENABLES** said it is not clear. **SCOTT** said she is sympathetic that the personal property left the borough, but any portion of the \$65K that is tax, must be paid. **VENABLES** suggested a salvage company assess the property. **ROSSMAN** said Lapeyri told him he had received an offer of \$10K to scrap the powerhouse and take it away. **SMITH** voiced a concern with the proposed amendment saying other people pay the penalties and interest if their taxes are late. He asked for more study of the situation. The manager was asked to study the issue further and make a recommendation to the assembly.

The motion was withdrawn by **SCOTT** and **LAPP**.

#### **4. Assembly Standing Committees and Assignments**

This item was removed during approval of the consent agenda.

#### **5. Potential Tax Relief for New Businesses**

This item was removed during approval of the consent agenda.

#### **6. Consideration of a Financial Disclosure "opt-out" at a Future Election**

This item was removed during approval of the consent agenda.

#### **7. Appointment of Assembly Members to the Collective Bargaining Contract Negotiating Team**

This item was removed during approval of the consent agenda.

#### **8. The Planning Commission receiving Direction from a Subcommittee rather than a Consensus of the Assembly**

**VENABLES** explained that the issue came from the PC. The PC has asked that issues/requests come from the Assembly as a whole as opposed to from a committee. **SCHNABEL** said the intent of the PC Chair is good, but the PC must recognize

that the assembly never works by consensus. It works by majority, so that is impossible to meet; that needs to be communicated to Stanford. **SCOTT** referred to the Robert's Rules book about committees and expressed belief that most concerns should be easily addressed if the assembly familiarizes themselves with the book.

**9. Public Works Waste Oil Burner Bid Award**

This item was removed during approval of the consent agenda.

**13. SET COMMITTEE MEETING DATES**

A committee-of-the-whole meeting will be set after the holidays for discussing priorities for the Washington D.C. lobbyist.

**SCHNABEL** said the finance committee stands ready to meet and assist the manager as he continues discussions with Lapeyri concerning the Chilkoote Lumber Company proposal.

**SCHNABEL**, **LAPP**, and **VANCLEVE** plan to be out of town during the 12/28 meeting, and it may have to be cancelled. **SCOTT** suggested a meeting on 12/29. No decision was made; the mayor will be consulted.

The Government Services Committee will meet on 12/21 at 4:00pm regarding the helicopter SUD subject.

The Special Election Canvass was scheduled for 12/20 at noon.

There will be a Finance Committee meeting on 12/20 at 1:00pm.

**14. ANNOUNCEMENTS/ASSEMBLY COMMENTS**

**ROSSMAN** asked if the borough has a credit card machine yet. **VENABLES** said it is still being researched. **SCHNABEL** noted the penalties and interest the Borough currently gets (approximately \$26K last year) would go away if people are able to pay for their taxes with credit cards.

**SMITH** asked what the plans are for replacing the recording machine. The clerk said \$300 has been budgeted but some of the recommended digital systems may cost about \$500. **LAPP** asked the clerk to make it a priority to purchase a new recording machine and the finance committee in identifying additional funds, if needed.

**15. ADJOURNMENT - 8:30pm**

---

Mike Case, Mayor

ATTEST:

---

Julie Cozzi, Borough Clerk